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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
JOHN H. KIEKHAEFER ) Group Art Unit: 2876  
SERIAL NO.: 09/675,912 )  
FILED: September 29, 2000 ) Examiner: J. Fureman  
FOR: TRANSPARENT/TRANSLUCENT )  
FINANCIAL TRANSACTION CARD )

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

**DECLARATION OF JOHN H. KIEKHAEFER UNDER 37 C.F.R. 1.132**

I, John H. Kiekhauer, hereby declare as follows:

**INTRODUCTION**

1. I am the inventor named in the above-referenced patent application.
2. I make this declaration in support of the accompanying document entitled "Response to Second Office Action." The Response addresses the issue of whether patent application publication no. 2002/0130186 A1 of Lasch et al. (the "186 publication"), cited against claims 1-11, 15-26, 30-39, 40-57, 70-79 and 82-84 of the present application, is entitled to the filing date of provisional application no. 60/153,112 (the "112 provisional application"), filed on September 9, 1999. The Response also addresses the issue of whether patent application publication no. 2002/0145049 A1 of Lasch et al. (The '049 publication"), which was cited but not applied in connection with the present application, is entitled to the filing date of the '112 provisional application."

3. As set forth in detail hereinafter, it is my opinion that neither of the '186 or '049 publications are entitled to the filing date of the '112 provisional application because of deficiencies in the provisional application's disclosure. In particular, the disclosure of the '112 provisional application is deficient because (A) the '112 provisional application does not adequately describe the subject matter of any claim of the '186 or '049 publications and (B) the '112 provisional application does not enable the subject matter of any claim of the '186 or '049 publications or the subject matter of any of the rejected claims of the present application.

### **EDUCATION AND EXPERIENCE**

4. I consider myself to be a person who is skilled in the art of financial transaction card design and manufacturing.

5. My formal educational background is as follows:

- Master of Science Degree in Engineering Management, Milwaukee School of Engineering, 1996;
- Bachelor of Science Degree in Chemistry, University of Wisconsin-Madison, 1975.

6. My professional experience is as follows:

- PERFECT PLASTIC PRINTING CORPORATION, St. Charles, IL, Research and Development Manager, 1999-Present;
- BRADY CORPORATION, Milwaukee, WI, Product Development Specialist, Graphics Systems, 1993-1998, Research and Development Manager, Signmark Division, 1989-1993, Technical Services Manager, Signmark Division, 1986-1989, Research and Development Supervisor, Facilities Identification Products Division, 1980-1986;
- Early Industry Experience: Bjorksten Research, Pierce Milwaukee, Brady, 1975-1980.

7. As a result of my education and experience:
- I am skilled in financial transaction card product design, laboratory testing, project management, and statistical process control;
  - I am familiar with plastics, resins, composites, sheets, films, papers, inks, coatings, and adhesives for use in the manufacture of financial transaction cards;
  - I have process knowledge of composites, thermoforming, and laminating as used in the manufacture of financial transaction cards; and
  - I have expertise in developing quality procedures and material specifications for financial transaction cards.
8. I am a named inventor on the following United States Patents:
- 6,510,993, entitled "Automated Edge Processing of Financial Transaction Cards;"
  - 6,296,188, entitled "Transparent Financial Transaction Card with Infrared Light Filter;"
  - 6,290,137, entitled "Transparent Financial Transaction Card with Infrared Light Filter;"
  - 5,124,187, entitled "Adhesive Sheet Materials for Signmaking Machines;" and
  - 4,812,343, entitled "Pultruded Fiber Reinforced Plastic Marking Devices."

### **SUMMARY**

9. It is my understanding, based on information and belief, that neither of the '186 and the '049 publications can be applied as prior art references against the claims of the present application unless it appears that one or both of the '186 or '049 publications are entitled to the benefit of the filing date of the '112 provisional application. It is my further understanding that in order to claim such benefit, there must be at least one claim of at least one of the '186 or '049 publications whose subject matter is described and enabled by the '112 provisional application. Moreover, it is my understanding that the '112 provisional application, as a separate and

additional requirement, must contain an enabling disclosure of the subject matter recited in the rejected claims of the present application in order to establish that the rejected subject matter was truly invented by another prior to the October 1, 1999 effective filing date of the present application.

10. I have studied the '112 provisional application, the disclosure and claims of the '186 and 046 publication, and the disclosure and claims of the present application.

11. It is my opinion that the '112 provisional application is defective on the twin grounds of (a) lack of description and (b) lack of enablement. As to the lack of description problem, it is my opinion that the '112 provisional application fails to convey with reasonable clarity to those skilled in the art that, as of the September 7, 1999 filing date sought, the inventor named in said application was in possession of the subject matter of any claim of the subsequent '186 or '049 publications. As to the lack of enablement problem, it is my opinion that the '112 provisional application fails to describe the subject matter of any claim of the '186 or '049 publications, or the subject matter of any rejected claim of the present application, in such terms that one skilled in the art could make and use the claimed invention.

### **LACK OF DESCRIPTION**

#### **(Relative to claims of '186 and '049 publications)**

12. There are four independent claims in the '186 publication, namely claims 1, 14, 20 and 43. Each of these independent claims has associated dependent claims defining four claim groups, namely claims 1-13, 14-19, 20-42 and 43-47. There are two independent claims in the '049 publication, namely claims 1 and 24. Each of these independent claims has associated dependent claims defining two claim groups, namely, claims 1-23 and 24-28. Summarizing in

advance, the respective claim groups of the '186 and '049 publications are all directed to embodiments that are present in the '186 and '049 publications but which are not mentioned in the '112 provisional application. In particular, the four claim groups of the '186 publication are all based on paragraphs 0071-0079 and Figures 7A-7I of the '186 publication (note that Figs. 7G, 7H and 7I are mentioned in the text but are missing from the '186 publication). The two claim groups of the '049 publication are all based on paragraphs 0072-0077 and Figures 7A-7I of the '049 publication. Note that paragraphs 0071, 0072, 0074, 0075, 0078 and 0079 of the '186 publication are respectively identical to paragraphs 0072-0077 of the '049 publication, and that Figures 7A-7F of the '186 publication are respectively identical to Figures 7A-7F of the '049 publication.

13. The above-referenced portions of the '186 and '049 publications deal with cards that comprise plural layers made from a combination of polyvinylchloride (PVC) and polyethyleneterephthalate (PET) polymers, including a PET IR blocking film manufactured by 3M Company. The '186 publication further mentions adhesive bonding of the PVC and PET layers using polyester adhesive material (paragraph 0073) and the use of a coextrusion and lamination process (paragraphs 0076-0077). In particular, an acid-modified ethylene-vinyl-acetate (EVA)-based material is coextruded on each side of a PET IR blocking optical film to form a 3-layer subassembly. The 3-layer subassembly is then laminated on each side to a printed PVC layer. In paragraph 0077, the use of conventional extrusion and coextrusion equipment to process polyethylene resins is described.

14. The independent claims of the '189 and '046 publications are recited below. Subject matter not supported by the '112 provisional application is represented by the italicized text.

#### **CLAIMS OF THE '186 PUBLICATION**

15. Independent claim 1 of the '186 publication reads as follows:

1. A transaction card comprising:  
a first layer comprising a first polymer wherein the first layer further comprises a machine recognizable compound;  
*a second layer extrusion coated to said first layer,*  
wherein said card is transparent or translucent.

16. There is no mention of extrusion coated layers in the '112 provisional patent application. The only discussion of layer attachment is found at page 7, line 30 – page 8, line 1, and at page 10, line 26 - page 11, line 5. The passage beginning on page 7 is directed to the front and back sheets 10 and 12, and mentions “. . . combining the sheets (step 106), by preferably adhering the front sheet 10 on top of the back sheet 12 . . . .” The passage beginning on page 10, line 26 is directed to the front and back sheets 10 and 12, and also discusses the application of a laminate material over the sheets 10 and 12. It is mentioned at page 10, lines 26-28 that the sheets 10 and 12 “. . . are preferably adhered together by any suitable adhering process, such as a suitable adhesive.” Beginning at page 10, line 32, it is stated that “. . . after adhering the sheets together, a sheet of known in the art laminate material . . . is applied over the front 10 and the back 12 of the card 5.” As stated at page 11, lines 3-5, the “. . . card 5 layers are suitably compressed at a suitable pressure and heated at about 400 degrees with a suitable dwell time to create a single card 5 device.” None of the foregoing passages contains any hint of an extrusion coating process being proposed for the manufacture of a transaction card. Nor have I ever heard of extrusion coating being used by the transaction card industry. Indeed, transaction cards are commonly made from PVC whereas the extrusion process described in the '186 publication is for polyethylene resins. The subject matter of claim 1 of the '186 publication thus defines subject matter that is not clearly conveyed in the '112 provisional application, and it is apparent to me

that the applicant was not in possession of the claim 1 subject matter at the time the '112 provisional application was filed.

17. Dependent claims 2-13 of the '186 publication add further limitations to independent claim 1 pertaining to the various specific layers that may be incorporated into a transaction card.

18. Independent claim 14 of the '186 publication reads as follows:

14. A method of making a card comprising the steps of:  
providing a first layer comprising a machine readable compound;  
*coextruding a second layer to said first layer,*  
wherein said card is transparent or translucent.

19. There is no mention of coextruding a second layer onto a first layer in the '112 provisional patent application. Nor have I ever heard of a coextruding process being used by the transaction card industry. Indeed, transaction cards are commonly made from PVC whereas the coextrusion process described in the '186 publication is for polyethylene resins. As set forth above in paragraph 16, the '112 provisional application only discusses adhering of the front and back sheets 10 and 12 in a general sense, and subsequent lamination of laminate material to the front and back sheets. The subject matter of claim 14 of the '186 publication thus defines subject matter that is not clearly conveyed in the '112 provisional application, and it is apparent to me that the applicant was not in possession of the claim 14 subject matter at the time the '112 provisional application was filed.

20. Dependent claims 15-19 of the '186 publication add further limitations to independent claim 14 pertaining to the various specific layers that may be incorporated into a card.

21. Independent claim 20 of the '186 publication reads as follows:

20. A card comprising:  
a plurality of layers wherein a *first layer comprises a first polymer* and a *second layer comprises a second polymer* wherein the second layer further comprises a machine

recognizable compound, wherein said plurality of layers is transparent or translucent and further wherein said plurality of layers are *laminated* together.

22. There is no mention of using first and second layers comprising first and second polymers in the '112 provisional application, or that such first and second layers should be laminated together. On page 7, line 29 of the '112 provisional application, it is first stated with respect to the front and back sheets 10 and 12 that "[e]ach sheet 10, 12 is substantially identical . . . ." There is no mention of using different materials for each sheet, such as first and second polymers. Moreover, as described above in paragraph 14, the front and back sheets 10 and 12 are not laminated together. Rather, it is stated on page 10, lines 27-28 of the '112 provisional application, the front and back sheets 10 and 12 are merely " . . . adhered by any suitable adhering process, such as a suitable adhesive." The only mention of lamination in the '112 provisional application is in connection with the laminate material applied to the front and back sheets 10 and 12, as described at page 10, line 32 – page 11, line 5. There is no mention of the laminate material being a second polymer that is laminated to a first polymer represented by the front or back sheets 10 or 12. Indeed, there is no indication in the '112 provisional application that the laminate material should be any different from the material used for the front and back sheets. Moreover, in the transaction card industry, the core and laminate sheets are usually both made from the same material. The subject matter of claim 20 of the '186 publication thus defines subject matter that is not clearly conveyed in the '112 provisional application, and it is apparent to me that the applicant was not in possession of the claim 20 subject matter at the time the '112 provisional application was filed.

23. Dependent claims 21-42 of the '186 publication add further limitations to independent claim 20 pertaining to the various specific layers that may be incorporated into a card.



24. Independent claim 43 of the '186 publication reads as follows:

43. A method of making a card comprising the steps of:  
bonding a plurality of layers together wherein said plurality of layers comprises a *first layer of a first polymer* and a *second layer of a second polymer* wherein said second layer comprises a machine readable compound and further wherein said plurality of layers are transparent or translucent.

25. As stated above in paragraph 22, there is no mention of using first and second layers comprising first and second polymers in the '112 provisional application. The subject matter of claim 43 of the '186 publication thus defines subject matter that is not clearly conveyed in the '112 provisional application, and it is apparent to me that the applicant was not in possession of the claim 43 subject matter at the time the '112 provisional application was filed.

26. Dependent claims 44-47 of the '186 publication add further limitations to independent claim 43 pertaining to various pressure conditions, and in claim 47 the use of a machine recognizable ink is mentioned.

#### **CLAIMS OF THE '049 PUBLICATION**

27. The claims of the '049 publication are fairly similar to the above discussed claims of the '086 publication.

28. Claim 1 of the '049 publication reads as follows:

1. A card comprising:  
a plurality of layers wherein *a first layer comprises a first polymer* and *a second layer comprises a second polymer* wherein the second layer further comprises a machine recognizable compound, wherein said plurality of layers is transparent or translucent.

29. As stated above in paragraph 22, there is no mention of using first and second layers comprising first and second polymers in the '112 provisional application. The subject matter of claim 1 of the '049 publication thus defines subject matter that is not clearly conveyed in the

'112 provisional application, and it is apparent to me that the applicant was not in possession of the claim 1 subject matter at the time the '112 provisional application was filed.

30. Dependent claims 2-23 of the '049 publication add further limitations to independent claim 1 pertaining to the various specific layers that may be incorporated into a card.

31. Claim 24 of the '049 publication reads as follows:

24. A method of making a card comprising the steps of:  
disposing a plurality of layers together wherein said plurality of layers comprises *a first layer of a first polymer and a second layer of a second polymer* wherein said second layer comprises a machine readable compound and further wherein said plurality of layers are transparent or translucent; and  
*laminating said plurality of layers together.*

32. As stated above in paragraph 22, there is no mention of using first and second layers comprising first and second polymers in the '112 provisional application. Moreover, as described above in paragraph 14, the front and back sheets 10 and 12 are not laminated together. The subject matter of claim 24 of the '049 publication thus defines subject matter that is not clearly conveyed in the '112 provisional application, and it is apparent to me that the applicant was not in possession of the claim 24 subject matter at the time the '112 provisional application was filed.

33. Dependent claims 25-28 of the '049 publication add further limitations to independent claim 24 pertaining to various pressure conditions, and in claim 47 the use of a machine recognizable ink is mentioned.

## **LACK OF ENABLEMENT**

### **(Relative to claims of '186 and '049 publications and rejected claims of present application)**

34. As previously stated, it is my further opinion that the '112 provisional application lacks an enabling disclosure of the claimed subject matter of the '186 and '049 publications. Moreover, as also stated, the '112 provisional application fails provide an enabling disclosure of the subject matter of the rejected claims of the present application.

35. It is my understanding that in order for a document to stand as prior art, what is presented needs to be correct and adequately described technically. The mere writing of an invention description does not necessarily make it a physical reality or technically feasible. Statements made need to be supported by cited documentation that can be checked.

36. There are serious problems in these regards with much of this "mere writing" in the above-referenced '112 provisional patent application. Overall, the '112 provisional application strikes me as a description of a market need, a loose rambling of ideas, theoretical processing, a discourse of background information (some of which is wrong), and a technically incorrect attempt to describe an invention that is not the same as the claimed subject matter of the '186 and '049 publications or the rejected subject matter of the present application.

37. First and foremost, the '112 provisional application fails to adequately show how to make a transaction card that is transparent or transparent to visible light but has sufficient opacity relative to infrared light to render the card recognizable or detectable by an ATM or other machine that detects a card by way of infrared source and detector elements disposed on opposing sides of the card.

38. In particular, the '112 provisional application repeatedly specifies that the card should be made with a material that absorbs infrared light but reflects all other light. This would result in a card that is visibly opaque and not transparent or translucent.

39. The first such passage is found at page 6, lines 10-13 of the '112 provisional application, in the section entitled "Brief Summary of the Invention," and states as follows (emphasis added by italics):

"The card is optically recognizable by an invisible infrared ink which is distributed over the card's surface, or alternatively by a hot mirror residing between the card sheets, *thereby allowing the card to absorb infrared light and reflect all other light.*"

40. The second passage specifying the use of an infrared absorber that reflects all other light is found at page 7, lines 14-18 of the '112 provisional application, in the section entitled "Detailed Description of Detailed Embodiments:"

"The optically recognizable element on transparent card 5 is *a substantially invisible infrared ink which absorbs infrared light but reflects all other wavelengths of light.* Alternatively, the optically recognizable element is *a hot mirror which also absorbs infrared light but reflects all other wavelengths of light.*"

41. The third passage specifying the use of an infrared absorber that reflects all other light is found at page 9, lines 12-31 of the '112 provisional application, again within the section entitled "Detailed Description of Detailed Embodiments:"

"With respect to the optically recognizable ink, one skilled in the art will appreciate that the optically recognizable ink is any chemical, solution, dye, ink substrate, material and/or the like which is recognizable by a sensor. In a preferred embodiment, the optically recognizable ink is an infrared ink which absorbs light, but reflects other wavelengths of light."

"Alternatively, the optically recognizable element is a hot mirror which also absorbs infrared light but reflects all other wavelengths of light."

42. What is significant about the foregoing passages is that they represent the totality of the '112 provisional application's discussion of the disclosed "optically recognizable material."

Thus, there is a fundamental technical error in the '112 provisional application that renders the disclosed card inoperable for its intended purpose. The only card that could ever be produced in accordance with the '112 provisional application is one that reflects visible light and is thus opaque in the visible range.

43. A further deficiency of the '112 provisional application is that it fails to disclose how to obtain or make any particular infrared absorbing material without undue experimentation. The only reference to any source of infrared absorbing ink material is found on page 9, lines 16-22 of the '112 provisional application, in the section entitled "Detailed Description of Detailed Embodiments," where reference is made to an offshore company located in Switzerland:

"The infrared ink may be obtained from, and applied to card 5 by, for example, the Sicpa Company with headquarters at: SICPA Management S.A., Avenue de Florissant 41, 1008 Prilly, Switzerland, Tel: +41 (21) 627 55 56."

44. A check of the SICPA product line reveals that it has many inks for sale. The fact that no particular ink is specified in the '112 provisional application would challenge one who is attempting to produce a transparent or translucent transaction card with infrared light filtering ability.

45. A further complication is that the '112 provisional application does not explain how to prepare an infrared ink so that it may be applied to a transaction card. On page 9, lines 24-26 of the '112 provisional application, it is confusingly explained that:

"Because infrared ink is a thicker, heavier ink, the infrared ink is mixed with a standard silk screen clear ink and applied to card 5 by a silk screening process."

46. I do not know what a "standard silk screen clear ink" is, and the '112 provisional application does not identify any particular product. Nor does the '112 provisional application explain what the mixing ratio of the infrared and clear inks should be in order to obtain a desired viscosity, or what effect the mixing has on the opacity of the infrared ink, or whether the ink mixture is compatible with subsequent lamination.

47. Regarding lamination, it is notable that an impossibly high temperature is recommended on page 11, lines 2-5 of the '112 provisional application, as follows:

"After the laminate is applied over the front 10 and back 12 of the combined plastic sheets (step 108), card 5 layers are suitably compressed at a suitable pressure and heated at about 400 degrees with a suitable dwell to create a single card 5 device."

48. The use of a lamination temperature of 400 degrees (Centigrade or Fahrenheit) would liquefy any laminate made from the PVC sheet stock commonly used to manufacture transaction cards.

49. There is no description of any particular hot mirror product to use in making a transaction card in accordance with the '112 provisional application. It is only stated that the hot mirror should "absorb" infrared light. However, a hot mirror by all scientific descriptions, reflects infrared light.

50. A further anomaly in the '112 provisional application is that it describes at page 8, line 1 a 42mm thick card. Since  $25.4 \text{ mm} = 1 \text{ inch}$ , the described card is actually 1.65" thick. This is not within the ISO thickness standard for transaction cards. Actually, what is described is not a card but a paperweight. Even if one places a decimal before or within the number, it is not an ISO thickness card.

51. On information and belief, the factors to consider when determining whether one skilled in the art could make an invention based on a disclosure without undue experimentation are (1) the quantity of the experimentation necessary (time and expense), (2) the amount of direction or guidance presented, (3) the presence or absence of a working example, (4) the nature of the invention, (5) the state of the prior art, (6) the relative skills of those in the art, (7) the predictability or unpredictability of the art, and (8) the breadth of the claims.

52. In my opinion, all of these factors point to a conclusion of undue experimentation.

53. As to the first factor, the quantity of experimentation, the amount of time and cost for experimentation is incalculably high because the '112 provisional application erroneously instructs that an ink or hot mirror which absorbs infrared light while reflecting all other wavelengths should be used. Even assuming a person skilled in the art was able to locate such as composition and successfully apply it in a transaction card construction, the material would never produce a card that is transparent or translucent. No amount of experimentation would change that fact.

54. Assuming, moreover, for the sake of argument that the '112 provisional application had properly stated that the infrared light absorber should transmit all other wavelengths, the experimentation required to identify a workable light absorber and successfully incorporate it into a card would have been undue. I know this from experience insofar as my own development of a transaction card as claimed in the present application took many weeks of trial and error testing in order to determine, among other things, (a) which materials provided the required combination of optical blocking at the desired infrared wavelengths and optical transmission in the visible range, (b) how the materials should be mixed with carrier vehicles and at what concentrations when applied to a core sheet, (c) how many layers of the mixture should be

applied for optimal functionality, (d) how thick the layers should be, (e) whether the selected materials were compatible with lamination processes, and (f) whether the selected materials were stable (e.g., would not become discolored) when incorporated in a card and exposed to environmental conditions such as ultraviolet light, etc.

55. As to the second factor, the amount of direction or guidance presented, the '112 provisional application provides little direction or guidance as to how to create the desired card, and in fact leads the public in the wrong direction. Again, as previously noted, the '112 provisional application incorrectly instructs that the infrared light absorber should reflect light in all other wavelengths. Even if this error is overlooked, and it is assumed that the '112 provisional application had properly stated that the infrared light absorber should transmit all other wavelengths, the remaining direction and guidance supplied by the application relative to the production of a working card is almost nonexistent. We are informed that either an infrared absorbing ink or a "hot mirror" may be used, and the name of a company that produces inks is mentioned. No particular ink or hot mirror specifications are provided, other than to state at page 9, lines 21-22 of the '112 provisional application that a minimal blocking wavelength of 770 nm is needed. Mixing of the infrared absorbing ink with a "standard silk screen ink" is suggested at page 9, lines 24-26. However, no particular "standard silk screen ink" is mentioned and no mixing ratios are specified.

56. As to the third factor, the presence or absence of a working example, no such example is set forth in the '112 provisional application.

57. As to the fourth factor, the nature of the invention, it is noted that the development of a workable card having the properties claimed in the present application is not a routine matter,



and the success of any particular light absorbing material is not predictable. Rather, as stated, much trial and error is required to produce satisfactory results.

58. As to the fifth factor, the state of the prior art, there are no prior art references that address the problem solved by the present invention. There are only a handful of patents of record herein that even discuss the use of infrared responsive materials in a card, and these references all deal with the encoding of cards using code patterns.

59. As to the sixth factor, the relative skills of those in the art, it is my opinion that the average person skilled in the art which my invention pertains has a bachelors degree in chemistry and industrial experience in the manufacture of transaction cards. Such a person would not be expected to have significant experience in the art of optically-responsive inks or dyes and would certainly not be able to select, without undue experimentation, an ink or dye that provides the transaction card optical properties claimed in the present Application and which adequately functions for the card's intended purpose.

60. As to the seventh factor, the predictability or unpredictability of the art, it is my opinion that the issue of whether any particular infrared blocking material would function satisfactorily according to the claims of the present invention is not predictable. Nor can it be predicted without undue experimentation how a selected material should be mixed and applied to a card to obtain the desired results. As stated, this is strictly a matter of trial and error.

61. As to the eighth factor, the breadth of the claims, it is noted that the claims the present Application that were rejected under the '186 publication have a range of scope. Many of the dependent claims have additional limitations that are nowhere shown or described in the '112 provisional application. By way of example only, consider rejected claims 15 ("light filtering material disbursed through all or a portion of said material sheet"), 30 ("light filtering material

disbursed through all or a portion of said material sheet”), 34 (“light absorbing dye material dissolved in a liquid coating material at a dye-to-coating weight ratio of between about 0.2-5.0%”) and 37 (“liquid coating comprises a plastic resin-based coating material”).

### CONCLUSION

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like may be punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon to which this Declaration relates.

Date: July 10, 2003

John H. Kiekhaefer  
John H. Kiekhaefer